

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE NEW MEXICO

UNITED STATES OF AMERICA,

SEP 29 2004

Plaintiff,

v.

No. CR-02-1671 LH

CLERK

MARIANO MARTINEZ-MAGANA,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's motion for extension of time and appointment of counsel (Doc. #2) filed May 28, 2004. Defendant seeks an order extending the one-year limitation period in 28 U.S.C. § 2255 for filing a motion to vacate, set aside, or correct sentence. "Such judicial intervention is justified only under 'extraordinary' or 'rare and exceptional' circumstances." *See Washington v. United States*, No. 99-3383, 2000 WL 985885, at **2 (10th Cir. Jul 18, 2000) (citations omitted). The requested extension will be denied. *See id.* ("the district court did not abuse its discretion in denying his motion for an extension of time [to file § 2255 motion]"). Furthermore, because there is no pending litigation, the request for appointment of counsel will be denied. Defendant's motion provides no basis for the relief sought and will be denied.

IT IS THEREFORE ORDERED that Defendant's motion for extension of time and appointment of counsel (Doc. #2) filed May 28, 2004, is DENIED.


UNITED STATES DISTRICT JUDGE